IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 13TH APRIL 2007 / 23RD CHAITHRA 1929

Crl.MC.No. 1217 of 2007()

CC.1400/2002 of JUDL.MAGISTRATE OF FIRST CLASS, N.PARAVUR

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PETITIONER/ACCUSED 1 TO 3:

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1. SAJU VARGHESE, S/O.VARGHESE,
ELAVANKUDI VEEDU, PONJASERY,
WEST VENGOLA, PERUMBAVOOR.

2. VARGHESE,
ELAVANKUDI VEEDU, PONJASERY,
WEST VENGOLA, PERUMBAVOOR.

3. AMMINI, W/O.VARGHESE,
ELAVANKUDI VEEDU, PONJASERY,
WEST VENGOLA, PERUMBAVOOR.

BY ADV. SRI.N.MAHESH

RESPONDENT/COMPLAINANT:

THE STATE OF KERALA
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1217 of 2007

Dated this the 13th day of April 2007

O R D E R

The petitioners face allegations interalia under Section 498A read with 34 I.P.C. They have entered appearance before the learned Magistrate and has been enlarged on bail. The petitioners, on a later date of posting, were not present. The learned Magistrate issued non bailable warrants against the petitioners to procure the presence of the petitioners. The petitioners are now willing to appear before the learned Magistrate. The learned counsel for the petitioners submits that the petitioners apprehend that their application for bail may not be considered on merits, in accordance with law and expeditiously by the learned Magistrate. They, therefore, pray that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioners on bail when they appear and apply for bail.

2. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate, the

circumstances under which they could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs.Deputy Superintendent of Police [2003(1)KLT 339].

3. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioners surrender before the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF APRIL 2007